

Alabama and Mississippi
Resource Management Plan and
Environmental Impact Statement
Scoping Report

September 2002

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Eastern States—Jackson Field Office

Introduction

The Bureau of Land Management (BLM) – Jackson Field Office (JFO), conducted (public) scoping from June through September 2002, as part of the preparation of a land use plan (LUP) for Alabama and Mississippi. The objective of scoping is to (1) involve the public in the LUP process and (2) comply with the Federal Land Policy and Management Act (FLPMA). The purpose of the scoping process is to obtain input, concerns and comments on the management of Public Domain (PD) lands and BLM-administered minerals.

“The objective of resource management planning by the Bureau of Land Management is to . . . ensure participation by the public, state and local governments, Indian tribes and appropriate Federal agencies (43 CFR 1601.0-2 Objective.).” “The development . . . of resource management plans will provide for public involvement (43 CFR 1601.0-8 Principles).” As is noted in section 1610.2 (a) “The public shall be provided opportunities to meaningfully participate in and comment on the preparation of plans . . . and be given early notice of planning activities. Public involvement in the resource management planning process shall conform to the requirements of the National Environmental Policy Act and associated implementing regulations.” The rest of this (lengthy) section lists the requirements BLM staff are required to follow in the public participation process throughout the LUP process. Section 1610.3 provides information for “Coordination with other Federal agencies, State and local governments, and Indian tribes.”

To date, scoping has consisted of public notification (and input) of this project in the Federal Register, letters and electronic mails (E-mails). The formal process began, when letters were sent to governors in the states of Alabama and Mississippi. They were invited to participate, as Cooperating Agencies (CA), in the preparation of the Resource Management Plan (RMP) and Environmental Impact Statement (EIS). Governor Ronnie Musgrove notified BLM staff the State of Mississippi wants to participate in this planning effort as a Cooperating Agency.

The Office of Surface Mining (OSM) was also invited to participate as a Cooperating Agency. To date, the OSM has not responded to the BLM’s invitation. OSM staff has (informally) notified the BLM their agency wants to participate informally in the LUP process.

A Notice of Intent to Prepare a Resource Management Plan for Alabama and Mississippi was published in the Federal Register in July. A Call for Coal Information and Invitation to Participate in Identification of Issues and Planning Criteria was also included in this Federal Register Notice. The public was invited to comment on this project and the proposed planning issues and criteria. Coal companies were invited to submit information on potential (BLM) coal tracts. The Federal Register Notice was the official (public) notification for this project.

Letters were sent to coal companies to inform them about this planning project and the BLM’s request for coal data. In response to inquiries, BLM staff sent E-mails to representatives of several companies. A letter was sent to the Mississippi Clearinghouse to inform state agencies of this LUP project (August). Letters were also sent to the presidents of county supervisors in Mississippi (August). Alabama doesn’t have a clearinghouse, therefore, letters were sent to all the county commissioners in Alabama (August).

Section 1: Plan Objectives

This document reports the results of the scoping process through September 2002. As a result of ongoing inventory work, it's anticipated the LUP will address the retention (or disposal) of isolated tracts of PD land in Alabama. The future leasing of BLM-administered minerals will be addressed for Alabama (coal) and Mississippi (oil and gas). BLM must complete a land use plan to make basic (1) land use allocations and set overall management direction for PD lands (Alabama) and (2) address the future leasing (and development) of BLM-administered minerals in Alabama and Mississippi. When completed, the plan will:

- Identify PD lands that will remain under Custodial Management by the BLM. These tracts would remain in federal ownership, but would not be managed pro-actively by the BLM. There would be no actions to manage habitats or other resources. When applications are submitted to the BLM, they would be processed on a case-by-case basis.
- Identify PD lands that are available for Disposal by the BLM. The BLM could pursue transferring the tracts out of federal ownership, when applications are submitted for these lands. Disposal of these tracts could occur through the (1) sale of the land, (2) a land exchange and (3) conveyance of the land to a governmental agency under a Recreation and Public Purposes (R&PP) Act.
- Identify PD lands that will be available for management through Partnerships with governmental agencies (i.e., state, county and city), community groups, etc. BLM would actively seek partners, and with their cooperation, develop site-specific implementation plans to identify needed management actions. Transfer to other federal agencies, or conveyance under an R&PP would be allowed, but only for uses primarily directed to attaining the management objectives in the RMP.

Section 2: Public Scoping Process

The LUP process (formally) begins with public scoping. This process is intended to solicit (1) agency and public input about planning issues and criteria, (2) issues of concern and (3) ideas and proposals for long-term management.

Goal of the Scoping Process

Scoping is a term from the National Environmental Policy Act (NEPA) of 1969 and its implementing regulations issued by the Council on Environmental Quality (CEQ). As defined by the CEQ regulations, scoping is an:

... early and open process for determining the scope of issues to be addressed [in a NEPA environmental document] and for identifying the significant issues related to the proposed action. [40 Code of Federal Regulations (CFR) Subpart 1501.7]

The primary goal of the scoping process is to solicit concerns, ideas and proposals from agencies and the public. Their input is used to (1) develop the long-term management of PD lands and BLM-administered minerals and (2) establish planning criteria for identifying land use proposals on these lands and minerals.

The Scoping Process

The (formal) scoping process was initiated by publishing a notice in the Federal Register. State agencies and county officials (commissioners and supervisors) were informed of this project by letter. Coal companies were informed of this project by letter and at the (annual) Alabama Coal Association Meeting this spring.

Section 3: Public Scoping Comments

Comments were submitted by E-mail by Wildlaw, a non-profit environmental law firm in Alabama. They provided general comments. They requested specific tract information, which is being compiled by BLM staff. It's anticipated this information will be available by the end of the calendar year. Wildlaw listed concerns and issues they felt should be addressed in the RMP, which are listed below.

Wildlife

- The need to have adequate site-specific data and information on types and populations of listed threatened, endangered and candidate species in the project areas.

Soil and Water

- Soils in the project areas be identified in a site-specific manner with field data showing where each soil type is, what its condition is, how these proposed activities will impact them, and what mitigation measures will be used.
- Site-specific data and information on soils, past soil loss, current sediment load in the streams, and realistic estimations of future sedimentation of streams in and below the project areas be collected and used for any decision.
- Aquatic species be adequately surveyed in and below the projects such that adverse impacts to them can be avoided.
- Spill prevention and cleanup plans and that reclamation plans be site-specific and fully enforceable.

Recreation

- The impacts to recreation be fully documented and supported by site-specific data and information.
- Oil and gas and other mineral extraction is given preference over recreational and wildlife uses.
- Impacts to recreation from exploration and development of the mineral resources are downplayed and considered inconsequential merely because they are temporary. You need verifiable information that recreational users are not adversely impacted by such operations before such impacts are dismissed.

Other

- Public lands not be transferred out of public ownership.
- Public lands not be used for commercial extraction when Alabama and Mississippi have so few public lands and their values for other purposes (such as wildlife, watershed protection, recreation, old growth, scenic beauty, etc.) are so much higher than their value for mineral extraction.
- The "No Action" alternative be given full consideration and not be dismissed merely because it will not meet the needs of special interests.

- All historic and archeological sites be adequately surveyed and considered prior to any proposed decision on these projects.
- Impacts from roads and road use be adequately identified and assessed. What information is there on the impacts (especially cumulative impacts) from roads, exploration activities, mining, mineral development/drilling, utility corridors, and forest fragmentation in these areas on wildlife, water quality, soils and recreation?
- The economics of the proposed project and that the final decision fully identify and consider not just the economics of the mineral leases but also the economics of recreational impacts, wildlife impacts and water quality impacts.
- The impacts to surrounding and neighboring landowners and the uses they make of their properties? How will you avoid adverse impacts to the uses and rights of other landowners?

Section 5: Issues to Be Addressed by the Planning Process

BLM staff identified the preliminary (planning) issues for this RMP. These issues were listed in the Federal Register Notice. They represent the BLM's knowledge, to date, on existing issues and concerns. The anticipated issues are (1) public lands that could be transferred from BLM-administration; (2) public lands that would be designated and managed as special management areas and (3) BLM-administered fluid minerals that would be closed to leasing or designated as open to oil and gas development under (a) standard terms and conditions, (b) timing limitation (seasonal) constraints, (c) controlled surface use constraints or (d) no surface occupancy constraints.

These issues are not final and may be refined by further public input (comments) during the preparation of the preliminary draft LUP. BLM staff will review issues proposed by the public. Determinations will be made as to whether they (1) will be addressed in the RMP or (2) are outside the scope of the RMP.

Section 6: Planning Criteria

In order to tailor its land use plans to relevant data and issues, BLM, through its public participation efforts develops a set of criteria at the beginning of the planning process. Planning criteria are based on applicable laws and regulations, Director and State Director guidance, and the results of public participation and coordination with other federal agencies, state and local governments, interest groups and Indian tribes (where applicable). Planning criteria can be changed in the LUP process through public input.

Planning criteria have been developed to guide the preparation of this RMP. These criteria apply only to lands that are or may be managed by the BLM. It is BLM's intent to manage PD lands and BLM-administered minerals in accordance with federal laws and the direction outlined in the following planning criteria.

Overall Planning Criteria

- Land use planning (RMP) and environmental analysis (EIS) will be conducted in accordance with laws, regulations, executive orders and manuals. Planning will be conducted for lands (tracts) and minerals under the administration of the BLM.

- Surface tracts will be mapped and identified by legal description. Land use policy will also be established for PD lands identified after the RMP is completed.
- A reasonable foreseeable development scenario (RFDS) will be prepared for the future leasing (and development) of fluid minerals under split-estate lands (i.e., non-BLM surface and BLM minerals). The RFDS will be developed on a regional (county) basis. Areas of high, moderate and low oil and gas potential will be identified (mapped) for each state.
- Areas with the potential for non-energy solid mineral leasing (i.e., phosphates, sodium, etc.) will be evaluated for inclusion in the RMP.
- Resource data, needed to evaluate the impacts of future (foreseeable) mineral development, will be collected on a regional basis.
- The planning team will work cooperatively with (1) federal, state, county and local governments and agencies, (b) tribal governments, (c) groups and organizations and (d) individuals. These criteria are not final and may be refined by public input.

Section 7: Program Elements to be Addressed in the Planning Process

The plan will be prepared under the principles of community-based planning and management and will offer many opportunities for meaningful public involvement. Based on (1) existing legal and policy constraints and (2) the concerns and issues identified by the public, BLM staff has determined the following program elements (as needed) will be given consideration in the LUP process.

Ecosystem Protection

The RMP will (as needed) focus on how to protect significant natural aquatic and terrestrial habitats, particularly the habitats for threatened and endangered species, while balancing the opportunities for continued use of tracts and (where appropriate) recreational uses. The plan will recognize the state's responsibility to manage wildlife, including hunting and fishing within all federal and state-owned land units.

Cultural and Historic Resource Protection and Interpretation

The diverse and important cultural and historic resources will be protected under the National Historic Preservation Act of 1966, as amended.

Land Access and Recreation

The need for access to PD tracts will be considered (as needed). Interim use guidelines may (as needed) allow for casual use of the property, until other more intensive uses can be analyzed. The RMP will identify recreation activities (where applicable) that can be supported while preserving ecological integrity

Off-road vehicles

As part of the LUP process, the BLM must establish off-road vehicle (ORV) or off-highway vehicle (OHV) designations for PD lands (where applicable). One of the following ORV/OHV designations: will be specified for PD lands (where applicable).

Open designations are used primarily for sites selected for intensive ORV recreation, where there are no compelling resource protection needs, user conflicts or public safety issues that limit cross-country use.

Limited designations are those in which resource values demand seasonal or other use restrictions to protect natural resources or public safety.

Closed designations are defined as the permanent closure of the public lands to all forms of ORV use at all times.

Maintenance and Administrative Access

As needed, the plan will address vegetation manipulation, restoration, monitoring, and research.

Special Designations

Address the suitability (and need) of designating PD lands as special management area. Possible designations are (1) special management area (SMA) or (2) area of critical environmental concern (ACEC). Foster preservation of open space and protection of crucial wildlife habitat and cultural resources.

Ecosystem Monitoring and Scientific Research

Ecosystem integrity will be monitored (as needed) to assess the effects of management (decisions), recreation, restoration and research on PD lands.

Budget and Funding

Measures to avoid or reduce management costs will be evaluated, appropriate levels of management funding will be examined, and potential funding sources will be identified.

BLM Strategic Plan

All BLM lands are to be managed to meet the mission outlined in its strategic plan:

Sustain the health, diversity and productivity of the public lands for the use and enjoyment of present and future generations by:

- Serving current and future publics;
- Restoring and maintaining the health of the land;
- Promoting collaborative land and resource management; and
- Improving business practices and human resources management.

Federal Laws and Executive Orders

The followings laws contain specific procedural activities or performance levels that BLM must undertake or achieve prior to finalizing land use planning decisions:

Americans with Disabilities Act, 42 U.S.C. 12101 et seq.

American Indian Religious Freedom Act, 42 U.S.C. 1996

Archaeological Resources Protection Act, 16 U.S.C. 470aa, et seq.

Clean Air Act, as amended, 43 U.S.C. 7401 et seq.

Clean Water Act, 33 U.S.C. 1251 et seq.

Coastal Zone Management Act, 16 U.S.C. 1451-1464

Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9615

Emergency Military Construction Act of 2000 (Pub. Law 106-246, 114 Stat. 511 (July 13, 2000))

Federal Laws and Executive Orders (Continued)

Endangered Species Act, 16 U.S.C. 1531 et seq.
Executive Order (E.O.) 11990, Protection of Wetlands (5/24/77)
E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (2/11/94)
E.O. 13112, Invasive Species (2/3/99)
E.O. 11988, Floodplain Management (5/27/77)
Federal Land Policy and Management Act, 43 U.S.C. 1701 et seq.
Federal Noxious Weed Act (7 U.S.C. 2801_2814, January 3, 1975, as amended.)
Federal Water Pollution Control Act, 33 U.S.C. 1344
Fish and Wildlife Coordination Act, 16 U.S.C. 661-664
Land and Water Conservation Fund Act, 16 U.S.C. 4601-4 through -11
National Environmental Policy Act, 42 U.S.C. 4321 et seq.
National Historic Preservation Act, 16 U.S.C. 470 et seq.
Omnibus Interior Appropriations Act of 2000
Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.
Rivers and Harbors Act, 33 U.S.C. 403
Surface Mining Control and Reclamation Act, 30 U.S.C. 1201 et seq.
Wild and Scenic Rivers Act, 16 U.S.C. 1271 et seq.
Wilderness Act, 16 U.S.C. 1131 et seq.

Applicable Federal Regulations

36 CFR 800, et seq., historic properties
40 CFR 1500, et seq., NEPA regulations
43 CFR 1610, land use planning
43 CFR 2800, right-of-way corridors
43 CFR 2920, leases, permits and easements
43 CFR 8340, et seq., off-highway vehicle use

State Laws and County Ordinances

In accordance with 43 CFR 1610.3-2 (a), “. . . resource management plans . . . shall be consistent with officially approved or adopted resource related plans, and the policies and programs contained therein, of other Federal agencies, State and local governments and Indian tribes, so long as the guidance and resource management plans are also consistent with the purposes, policies and programs of Federal laws and regulations applicable to public lands . . .”

Under BLM’s planning mandate, it is required to be consistent with state and local laws and ordinances to the maximum extent possible. Consistency will be determined through on-going dialogue with state and local officials and by conducting a formal Governor’s Consistency Review towards the conclusion of the planning process, as is required by the Federal Land Policy and Management Act.